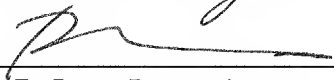


I hereby certify that this correspondence is being electronically filed in the United States Patent and Trademark Office on June 29, 2009.



Doran R. Pace, Patent Attorney

ELECTION UNDER 35 USC §121  
Examining Group 1634  
Patent Application  
Docket No. UF.418C2XCZ1  
Serial No. 10/590,675

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner : Stephen Thomas Kapushoc  
Art Unit : 1634  
Applicants : Nasser Chegini, Xiaoping Luo, Li Ding, R. Stan Williams  
Serial No. : 10/590,675  
Filed : October 18, 2007  
Confirm. No. : 2860  
For : Detection and Treatment of Fibrotic Disorders

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

ELECTION UNDER 35 USC §121

Sir:

In response to the written Restriction Requirement dated May 27, 2009 in the above-identified patent application, Applicants hereby elect to prosecute the invention of Group III (claims 27-29, 31-37, and 40-42), without traverse. Applicants further elect the following single specific combination of at least one gene from those genes recited in claims 31-37: CTGF, fibromodulin, IL-11, IL-13, EGR1, EGR2, EGR3, MCP-1, MCP3, CXCL5, CCL7, SMAD3, SMAD7, TGF- $\beta$ RII, TIMP-1, stanniocalcin 2, and ADAM17, with traverse.

Applicants respectfully request that the restriction based on a specific combination of at least one gene from those listed in the claims be reconsidered and withdrawn. The Examiner asserts that the different recited genes and combinations thereof lack unity in that the different genes are unique in that they are composed of particular nucleic acid sequences that are not common to one another. Applicants respectfully assert that the fact that the different genes may not share common sequences is irrelevant to a unity of invention determination where the

claimed invention is directed to methods for modulating gene expression in fibrotic tissue. Applicants have identified genes whose expression is associated with fibrotic tissue. Applicants are not claiming the genes themselves. Thus, Applicants' methods for modulating gene expression in fibrotic tissue should not be limited to a specific gene; rather, Applicants should be entitled to claim, as a single invention, the method using each and all combinations of the genes associated with fibrotic tissue as identified in the subject application. Requiring Applicants to prosecute a separate patent application for each combination of genes would be a hardship on both the Applicants and the Patent Office. As an example, if the methods involved the use of any combination of just four (4) separate genes, then the current restriction would require Applicants to file fifteen (15) separate applications to pursue method claims using the various combinations of differentially expressed genes. As the number of genes identified for use in the claimed methods increases, the number of separate patent applications that would be required becomes astronomical. At most, the election of a specific combination of at least one gene from the claims should be an election of species. Accordingly, reconsideration and withdrawal of the Restriction Requirement and a determination of unity of invention for combinations of genes is respectfully requested.

A Preliminary Amendment is being submitted with this Election.

The Commissioner is hereby authorized to charge any fees under 37 CFR §§1.16 or 1.17 as required by this paper to Deposit Account No. 19-0065.

Respectfully submitted,



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DRP/mv  
Attachment: Preliminary Amendment